

**IN THE UNITED DISTRICT COURT FOR THE  
EASTERN DISTRICT OF TENNESSEE**

KENDALL MELTON and LISA MELTON  
Plaintiffs,

v.

H&S HOMES, LLC d/b/a  
HORTON HOMES ALCOA, with service  
of process on its Registered Agent, CT  
Corporation System, 800 S. Gay Street,  
Suite 2021, Knoxville, Tennessee 37928-9710

and

21<sup>st</sup> MORTGAGE CORPORATION, with service  
of process on its Registered Agent, Tim Williams,  
620 Market Street, Knoxville, Tennessee 37982

and

OHIO CASUALTY INSURANCE COMPANY,  
175 Langley Drive, Ste E3,  
Lawrenceville, Georgia 30045  
Defendants

CASE NO.: \_\_\_\_\_

**NOTICE AND PETITION FOR REMOVAL**

COMES NOW, the Defendant, Ohio Casualty Insurance Company, Inc.

(hereinafter "Ohio Casualty"), Defendant in the above-styled action, by and  
through the undersigned counsel, and pursuant to 28 U.S.C. §§ 1332 and 1441, and  
hereby notices its removal of this action from the Chancery Court of Blount

County, Tennessee, to the United States District Court for the Eastern District of Tennessee, and shows the Court as follows:

1.

On or about August 8, 2006, the Commissioner of Commerce and Insurance for the State of Tennessee was served by Plaintiffs on behalf of Ohio Casualty.

2.

This Complaint was then sent via certified mail to representatives of Ohio Casualty.

3.

The Plaintiffs allege causes of actions against Ohio Casualty, H&S Homes, LLC, and 21<sup>st</sup> Mortgage Corporation.

4.

These Defendants, by their signatures attached, consent to this removal.

5.

In the Complaint, Plaintiffs seek unspecified damages. The damages sought by Plaintiffs include, but are not limited to, the cost of Plaintiffs' manufactured home for a total cost of *Fifty-Nine Thousand Nine Hundred Fifty and 00/100 Dollars* (\$59,950.00), unspecified losses which Plaintiffs allege they suffered because of a defective set-up of their manufactured home, and attorneys' fees and

fees of experts, which are recoverable should Plaintiffs prove their claims under the Tennessee Consumer Protection Act.

6.

The total amount in controversy is greater than *Seventy-Five Thousand and 00/100 Dollars* (\$75,000.000).

7.

Plaintiffs are Tennessee residents.

8.

Defendant H&S Homes, LLC is a Georgia limited liability company.

9.

Defendant 21<sup>st</sup> Mortgage Corporation is a Delaware corporation.

10.

Defendant Ohio Casualty is an Ohio corporation.

11.

Without waiving any defenses, Defendant asserts that this Court has jurisdiction of this action pursuant to 28 U.S.C. § 1332 as the amount in controversy exceeds the sum or value of *Seventy-Five Thousand and 00/100 Dollars* (\$75,000.000), exclusive of interest and costs, and the dispute is between citizens of different states. The action, therefore, may be removed to this Court pursuant to 28 U.S.C. § 1441(a).

12.

This Notice of Removal is being filed within thirty (30) days of Defendant's receipt of the Complaint, and thus, is timely under 28 U.S.C. § 1446(b).

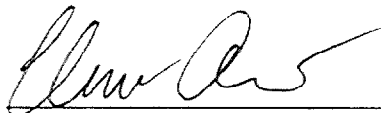
13.

A copy of the Complaint filed by Plaintiffs in this matter is attached hereto.

14.

Defendant has filed a copy of this Notice of Removal with the Chancery Court of Blount County, state of Tennessee. A copy of that Notice is attached hereto.

Respectfully submitted this 5<sup>TH</sup> day of September, 2006.



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**MICHAEL K. ATKINS, ESQ.**

**Tennessee Bar No. 017862**

**Attorney for Ohio Casualty Insurance Company**

**BAKER, O'KANE, ATKINS & THOMPSON**  
**2607 Kingston Pike, #200**  
**Knoxville, TN 37919**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the within and foregoing **Notice of Removal** has been served upon the parties listed below via *First Class Mail* and addressed as follows:

**Kenneth W. Holbert  
c/o Finkelstein, Kern, Steinberg & Cunningham  
Attorneys at Law  
P.O. Box 1  
Knoxville, Tennessee 37902**

**H&S Homes, LLC d/b/a  
Horton Homes Alcoa, with service  
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**MICHAEL K. ATKINS, ESQ.  
Tennessee Bar No.  
Attorney for Ohio Casualty Insurance Company**

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OHIO CASUALTY INSURANCE COMPANY,  
175 Langley Drive, Ste E3,  
Lawrenceville, Georgia 30045  
Defendants

CAFN: \_\_\_\_\_

**Consent to Removal by Ohio Casualty Insurance Company**

21<sup>st</sup> Mortgage Corporation, identified as Defendant in this suit, hereto consents to Ohio Casualty Insurance Company's Removal from Chancery Court of Blount County, Tennessee to the United States District Court for the Eastern District of Tennessee. By signing this consent, 21<sup>st</sup> Mortgage Corporation further states that it is a Delaware corporation.

This 5<sup>th</sup> day of September, 2006

21<sup>st</sup> Mortgage Corporation

*Tim Miller*

Its: *Pres.*

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**Consent to Removal by Ohio Casualty Insurance Company**

H&S Homes, LLC, d/b/a Horton Homes Alcoa, identified as Defendant, but not served, in this suit, hereto consents to Ohio Casualty Insurance Company's Removal from Chancery Court of Blount County, Tennessee to the United States District Court for the Eastern District of Tennessee. By signing this consent, H&S Homes, LLC further states that it is a Georgia corporation.

Notice of Removal 083106



This 5<sup>th</sup> day of September, 2006

H&S Homes, LLC

By: Steve M. Goulamba  
Its: Pres.

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